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OFFICE OF PETITIONS

In re Patent No. 7,354,538
Issued: April 8, 2008
Application No. 10/560,161
Filed: April 7, 2006
Attorney Docket Number: 1-36739

ON PETITION

This is a decision on the petition under 37 CFR 1.323 for a certificate of correction, filed June 27, 2008, to correct the assignees' names on the front of the Patent. The request is being treated as a request under 37 CFR 3.81(b)¹.

The petition is **DISMISSED**.

Petitioner argues that although the Issue Fee Transmittal (PTOL-85B) filed February 19, 2008 only listed one assignee, there in fact is one other assignee that should have been listed. Accordingly, petitioner argues that the Patent incorrectly issued in the name of only one assignee and requests that a certificate of correction be issued to correctly identify the assignees.

Pursuant to the Reel/Frame No. information provided in the petition, the assignment to AGR INTERNATIONAL, INC. (Reel No. 021109/Frame No. 0916) was not recorded until June 12, 2008 which was after the patent issued on April 8, 2008.

What is printed on the face of the patent is the information printed on the PTOL-85(b). A certificate of correction would be in order if the information provided on the PTOL-85(b) was different from that included in the Office assignment records and it could be proven that the correct assignment information was recorded prior to the payment of the issue fee.

37 CFR 3.81(b), effective June 25, 2004, reads:

¹See Official Gazette of June 22, 2004

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter).

Since petitioners have not provided any evidence that the assignment was submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.²

The petition fee in the amount of \$130.00 has been charged to deposit account no. 50-3156 for the petition under 37 CFR 3.81.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

²See also MPEP 307.